IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 4654 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHISH VIJAYBHAI NAIR & 6 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR RAJEEV I CHOPRA for Applicant(s) : 1 - 7.
Mr. RC Kodekar, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1,
RULE UNSERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 17/07/2007
ORAL JUDGMENT

Present application has been filed by the petitioners under Section 482 of the Code of Criminal Procedure to quash the complaint being M. Case No. 11 of 2002 registered before Vasai

Police Station.

2. Father of petitioner No.7, respondent No.2 herein filed complaint against all the petitioners on 10th June 2002 for the offences punishable under Sections 363, 365, 366, 380 and 114 of the Indian Penal Code alleging inter alia that the petitioners more particularly petitioner No.1 in connivance with other petitioners coaccused forcibly kidnapped his daughter i.e. Petitioner No.7 herein. It prima facie appears that the petitioner No.7 herein had gone voluntarily with the petitioner No.1. As the marriage was not liked by the father respondent No.2 herein it led to filing of the aforesaid complaint. It appears from the record that the private complaint was filed before the learned J.M.F.C., Vijapur which was sent by the learned Trial Court to the Police Station, Vasai, for investigation under Section 156(3) of Criminal Procedure Code. Being aggrieved and dissatisfied with the same the petitioners have

preferred the present petition to quash the aforesaid complaint.

3. Along with the petition, the petitioner No.7 herein and daughter of the complainant, respondent No.2 has filed the affidavit annexing therewith the Marriage Certificate as proof of marriage between the petitioner No.1 and the petitioner No.7. In the said affidavit it is specifically mentioned that she had voluntarily gone with the petitioner No.1, married him and they are living happily.

4. Considering the averments in the application as well as the affidavit of petitioner No.7, i.e., daughter of complainant, it appears to the Court that the petitioner No.7 had gone voluntarily with the petitioner No.1, their marriage took place on 30th April 2002 which is also registered with the Registrar of Marriage, Ahmedabad City. In the Affidavit it is also specifically mentioned that she had gone

with the petitioner No.1 voluntarily. In view of the Affidavit and the fact that the petitioner No.7 has married with the petitioner No.1 and they are living happily since 2002 it will not be in the interests of either parties to continue with the criminal proceedings. Even considering the affidavit of the petitioner No.7 it cannot be said that the petitioners have committed any offence under Section 363, 365, 366, 380 & 114 of the Indian Penal Code. It also appears to the Court that to continue the criminal proceedings in the facts and circumstances of the case would be abuse of process of law and/or will not be in the interests of parties. Under the circumstances, this Court is of the opinion that this is a fit case in which powers under Section 482 of the Cr.P.C., should be invoked and the impugned complaint should be quashed and set aside.

5. For the reasons stated above, the

petition succeeds. The criminal proceeding being complaint M. Case No. 11 of 2002 registered with Vasai police station is hereby quashed and set aside. Rule is made absolute accordingly.

[M.R. Shah, J.]

rmr.